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SUBJECT: INDIA SEEKS TO PROTECT POSTAL SERVICES FROM
COMPETITION

11. (SBU) Summary: Communist labor unions boast 600,000 members in the public sector postal department and the UPA government cannot remain in power without Communist support. In a demonstration of the fetters that the Communists can maintain over UPA economic policy, the Congress-dominated UPA government has moved to placate the Communists by considering legislation to amend India's 108 year-old Post Office Act. While the Act is long overdue for an overhaul, a number of ill-advised proposed amendments would seriously impact U.S. and other foreign providers of express delivery services by restricting market access and expanding the postal department's existing monopoly into services currently provided by express delivery carriers such as UPS, FEDEX, and DHL. Although the Postal Department wants the amendments to be tabled in Parliament during the current session, this is highly unlikely as the session ends on May 23. Moreover, industry sources believe that the proposed changes affecting express delivery services are unlikely to pass, given their negative impact on key sectors such as IT and biotechnology that rely heavily on efficient express delivery services. Mission has spoken with local chambers and industry and registered our concern about this proposal with senior GOI officials. We strongly recommend that this issue be taken up at the May 30 Trade Policy Forum in Delhi. End Summary.

UNIONS BACK THE MOVE

12. (SBU) Communist trade unions and their sponsoring parties are backing a series of amendments to India's Post Office Act. The postal department employs almost 600,000 workers

and nearly 90 percent of them are unionized. G.K. Padmanabhan, a senior Congress leader, backed union claims that the legislation was necessary to create a level playing field for the postal department. Speaking to Embassy officials, he argued that the courier companies were indulging in cherry picking by concentrating their businesses in big urban centers, whereas the DOP had a social obligation to serve each and every village in the country. Dr. M.K. Pandhe, President of the Center of Indian Trade Unions (CITU) affiliated to the Communist Party of India Marxist) expressed a similar view, saying that his union would pressure the government to enact the legislation speedily. Pandhe claimed that the amendments would bring order to an unregulated industry and improve the services of both the courier companies as well as the DOP.

PROTECTIONISM IN THE GARB OF REGULATION

¶3. (SBU) The GOI's Department of Post (DOP) announced in April 2006 that it planned to move legislation through the Indian Parliament to amend the Indian Post Office Act of 1898. One feature of The Indian Post Office (Amendment) Bill, 2006 ostensibly aims to create a regulatory environment for the as-yet unregulated courier industry that has grown enormously since India began liberalizing key parts of its economy that depend on express delivery such as IT and the services sector. Despite some initial problems, the largely private sector Rs. 35 billion (approx \$778 million) industry has set a high standard for speedy and efficient delivery. The Bill proposes the creation of an independent regulator (on the lines of those already functioning in the

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telecommunications and insurance industries) and a dispute settlement tribunal. However, the Bill's effect would be to weaken foreign companies' access to the express delivery market in India by excluding any companies with more than 49 percent foreign equity participation. UPS representatives raised these and other concerns in meetings with the DCM and economic section.

MONOPOLY FOR THE GOVERNMENT

¶4. (SBU) The Bill would expand the DOP monopoly beyond basic and essential universal postal service to any letters up to 300 grams. Letters includes any document or written communication produced by mechanical, electronic, or other means. At present, the private courier companies dominate and compete at the high end of the postal market by collecting express documents. The postal department has been feeling the pinch in the urban areas as high-value and large-volume businesses increasingly switch from traditional postal to express delivery services. Postal officials have tried to justify the proposed monopoly as a temporary measure meant to recapture this lost revenue

¶5. The draft bill would also impose on private couriers an annual license renewal fee of Rs. 10,000 (US \$220) for domestic deliveries and Rs. 500,000 (US \$11,100) for foreign deliveries. Even more burdensome would be the provision that private companies with revenues of over Rs 2.5 million (US \$55,000) pay 10 per cent of their annual revenues into a Universal Services Obligation (USO) fund. The DOP claims that this fund will subsidize postal services in economically unviable areas.

PRIVATE SECTOR CONCERNED

¶6. (SBU) The courier industry has responded by expressing its strong opposition to the proposed legislation. Industry leaders have met DOP officials to register their objections to the Bill. Trade bodies such as the Associated Chambers of Commerce and Industry (ASSOCHAM) and the Confederation of Indian Industries (CII) have also called on the GOI to reconsider the legislation. Speaking to Embassy Officials, Mr. M.K. Garg of ASSOCHAM said that passage of this

legislation by Parliament would send the wrong signal to many foreign investors looking for India to open up its economy. Echoing similar views, Mr. B.P. Pant of the Federation of India Chambers of Commerce and Industry (FICCI) said that the proposed legislation would only &preserve and protect the loss making and highly overstaffed postal department.⁸ The American Chamber of Commerce in India has also expressed its views in writing to the DOP and senior GOI officials.

COMMENT: A LETTER BOMB

¶7. (SBU) Most worrying in all this is the UPA's willingness to soak competitive Indian and foreign courier companies to protect bloated and somnolent bureaucracies and their union workers. This bill, if enacted, will not bode well for future efforts to help the new India escape the old. The UPA government realizes that the bill will restrict the operating environment for private courier companies at precisely the time when they are providing vital services to Indian business and services industry, and that the moves to

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restrict foreign investment in the courier business and expand the DOP monopoly to all type of mail up to 300 grams would result in significant revenue loss for the courier companies. This would have a significant chilling effect on future foreign investment in India in express delivery services.

¶8. (SBU) Although it is well aware of the possible deleterious effects, the UPA has moved the Bill forward as it has determined that it cannot afford to anger and alienate the Communists whose union members are the Bill's primary beneficiaries. Although the UPA insists publicly that the draft Bill will make the courier industry more rule-based and transparent, its determination to protect and subsidize the Postal Department and its large union is all too apparent. This is another demonstration that the Communists have virtual veto power over issues vital to them as long as the survival of the UPA is in their hands.

¶9. (SBU) Last year, the DOP suffered a revenue deficit of about Rs 1.4 billion (US \$311 million) and the government wants to end its costly subsidies. One way to avoid the politically difficult decision to cut subsidies is to shift the costs to private couriers through the USO 10 percent tax. In order for the GOI to correct the current impression that it has introduced &reform⁸ legislation merely to protect its overstaffed postal service, it would have to allow private courier companies that provide rural services access to the USO fund. We don't expect the GOI to introduce such a measure. Although the DOP had hoped the GOI would introduce this Bill in the current parliamentary session, this is unlikely to happen, as the session ends May 23. Strong objections by the courier companies have also compelled the DOP to take a second look at the legislation. Industry sources have told Mission that passage of the legislation in its current form is unlikely because of its obvious overall negative impact on the economy.

¶10. (SBU) Embassy Econstaff and the DCM have discussed this issue with the United Parcel Service. The Ambassador also left a paper with Planning Commission Deputy Chairman Montek Singh Ahluwalia expressing strong USG concerns with the legislation. Under Secretary of Commerce Lavin raised this issue with GOI officials during his early May visit to Delhi and Econstaff have also expressed U.S. concerns with various GOI officials. The U.S. has also raised this issue in the services focus group of the U.S.-India Trade Policy Forum and Post has strongly recommended that this issue be raised by Deputy USTR Bhatia in the May 30 Trade Policy Forum meeting in Delhi. End Comment.

MULFORD